

House File 618 - Enrolled

HOUSE FILE 618

AN ACT

RELATING TO THE DUTIES OF THE LABOR COMMISSIONER PURSUANT TO
WAGE PAYMENT COLLECTION AND CHILD LABOR LAW ENFORCEMENT,
AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

WAGE PAYMENT COLLECTION PENALTIES

Section 1. Section 91A.12, subsection 1, Code 2009, is amended to read as follows:

1. Any employer who violates the provisions of this chapter or the rules promulgated under it shall be subject to a civil money penalty of not more than ~~one~~ five hundred dollars per pay period for each violation. The commissioner may recover such civil money penalty according to the provisions of subsections 2 to 5. Any civil money penalty recovered shall be deposited in the general fund of the state.

DIVISION II

CHILD LABOR VIOLATION PENALTIES

Sec. 2. Section 92.11, subsection 2, paragraph c, Code 2009, is amended to read as follows:

c. ~~In For cases where none of the above-named proofs designated in paragraphs "a" and "b" are not obtainable, documentation issued by the federal government that is deemed by the commissioner to be sufficient evidence of age, or an affidavit signed by a licensed a certificate, signed by the local medical inspector of schools, or if there be no such inspector, then by a physician appointed by the local board of education, certifying that in the inspector's or physician's opinion the applicant for the work permit is fourteen years of age or more.~~

Sec. 3. Section 92.19, Code 2009, is amended to read as follows:

92.19 VIOLATIONS BY PARENT OR GUARDIAN.

1. No parent, guardian, or other person, having under the parent's, guardian's, or other person's control any person under eighteen years of age, shall ~~willfully~~ negligently permit said person to work or be employed in violation of the provisions of this chapter.

2. No person shall ~~willfully~~ negligently make, certify to, or cause to be made or certified any statement, certificate, or other paper for the purpose of procuring the employment of any person in violation of this chapter.

3. No person shall make, file, execute, or deliver any statement, certificate, or other paper containing false statements for the purpose of procuring employment of any person in violation of this chapter.

4. No person, firm, or corporation, or any agent thereof shall ~~willfully~~ negligently conceal or permit a person to be employed in violation of this chapter.

5. No person, firm, or corporation shall refuse to allow any authorized persons to inspect the place of business or provide information necessary to the enforcement of this chapter.

Sec. 4. Section 92.20, Code 2009, is amended to read as follows:

92.20 PENALTY.

1. The parent, guardian, or person in charge of any migratory worker or of any child who ~~shall engage~~ engages in any street occupation in violation of any of the provisions of this chapter shall be guilty of a ~~simple~~ serious misdemeanor.

2. Any person who furnishes or sells to any minor child any article of any description ~~when which~~ the person knows or should have known ~~that said the~~ minor intends to sell in violation of the provisions of this chapter, shall be guilty of a ~~simple~~ serious misdemeanor.

3. Any other violation of this chapter for which a penalty is not specifically provided, ~~shall be guilty of~~ constitutes a ~~simple~~ serious misdemeanor.

4. Every day during which any violation of this chapter continues ~~shall constitute~~ constitutes a separate and distinct

offense, and the employment of any person in violation of this chapter ~~shall~~, with respect to each person so employed, ~~constitute~~ constitutes a separate and distinct offense.

Sec. 5. Section 92.21, Code 2009, is amended to read as follows:

92.21 RULES AND ORDERS OF LABOR COMMISSIONER.

1. The labor commissioner may adopt rules to more specifically define the occupations and equipment permitted or prohibited in this chapter, to determine occupations for which work permits are required, and to issue general and special orders prohibiting or allowing the employment of persons under eighteen years of age in any place of employment defined in this chapter as hazardous to the health, safety, and welfare of the persons.

2. The labor commissioner shall adopt rules specifically defining the civil penalty amount to be assessed for violations of this chapter.

Sec. 6. Section 92.22, Code 2009, is amended to read as follows:

92.22 LABOR COMMISSIONER TO ENFORCE.

1. The labor commissioner shall enforce this chapter. An employer who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil penalty of not more than ten thousand dollars for each violation.

2. The commissioner shall notify the employer of a proposed civil penalty by service in the same manner as an original notice or by certified mail. If, within fifteen working days from the receipt of the notice, the employer fails to file a notice of contest in accordance with rules adopted by the commissioner pursuant to chapter 17A, the penalty, as proposed, shall be deemed final agency action for purposes of judicial review.

3. The commissioner shall notify the department of revenue upon final agency action regarding the assessment of a penalty against an employer. Interest shall be calculated from the date of final agency action.

4. Judicial review of final agency action pursuant to this section may be sought in accordance with the terms of section 17A.19. If no petition for judicial review is filed within sixty days after service of the final agency action of the commissioner, the commissioner's findings of fact and final agency action shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the final agency action and shall transmit a copy of the decree to the commissioner and the employer named in the petition.

5. Any penalties recovered pursuant to this section shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state.

6. Mayors and police officers, sheriffs, school superintendents, and school truant and attendance officers, within their several jurisdictions, shall ~~co-operate~~ cooperate in the enforcement of this chapter and furnish the commissioner and the commissioner's designees with all information coming to their knowledge regarding violations of this chapter. All such officers and any person authorized in writing by a court of record shall have the authority to enter, for the purpose of investigation, any of the establishments and places mentioned in this chapter and to freely question any person therein as to any violations of this chapter.

7. County attorneys shall investigate all complaints made to them of violations of this chapter, and prosecute all such cases of violation within their respective counties.

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 618, Eighty-third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2009

CHESTER J. CULVER
Governor